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BANK OF AMERICA, N.A., and
LARRY P. JOHNSTON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ART MICHELETTI, an individual,

Plaintiff,

v.

BANK OF AMERICA, N.A., a national
banking association, LARRY P. JOHNSTON,
an individual, and DOES 1-10,

Defendants.

Case No. C 08-3557 JSW

**STIPULATION AND [PROPOSED]
ORDER REMANDING ACTION TO
STATE COURT**

STIPULATION

WHEREAS, Plaintiff Art Micheletti filed this action on July 16, 2008, in California Superior Court for the County of San Francisco;

WHEREAS, both Plaintiff Art Micheletti and Defendant Larry P. Johnston are citizens of California;

WHEREAS, on July 24, 2008, Defendant Bank of America removed the action to this Court, arguing that diversity jurisdiction exists because Defendant Johnston's joinder was a sham;

WHEREAS, the parties have met and conferred and agree to remand this action to California Superior Court for the County of San Francisco without need for briefing or argument;

NOW THEREFORE, the parties to this action hereby stipulate that the action be remanded by this Court to the California Superior Court for the County of San Francisco.

DATED: September 5, 2008

KERR & WAGSTAFFE LLP

By /s/
ADRIAN J. SAWYER

Attorneys for Plaintiff
ART MICHELETTI

DATED: September 5, 2008

BUCHALTER NEMER

By /s/
RICHARD C. DARWIN

Attorneys for Defendants
BANK OF AMERICA, N.A., and
LARRY P. JOHNSTON

[PROPOSED] ORDER

Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that this action be and hereby is REMANDED to the California Superior Court for the County of San Francisco.

Dated: _____, 2008

HON. JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

ATTESTATION (GENERAL ORDER 45.X.B.)

I, Adrian J. Sawyer, am the ECF user whose ID and password are being used to file this stipulation. I hereby attest that I have obtained concurrence for this filing from counsel for Defendants, the other signatory to this stipulation.